lately in Indiana itself. The position which the Supreme Court has taken is uncertain. Justice Field in *Warnock v. Davis*, 104 U. S. 775, endorses the Indiana doctrine, and in *N. Y. Mutual Life Ins. Co. v. Armstrong*, 117 U. S. 591, 597, he apparently holds the same view.

TRADE—UNFAIR COMPETITION—USE OF SIMILAR SURNAME.—VAN HOUTEN V. HOOTON COCOA & CHOCOLATE CO., 130 FED. 600.—Defendant, a corporation named after its founder Hooton, in good faith manufactured and sold "Hooton's Cocoa" by use of which name confusion in trade resulted to the damage of complainants, makers of the well known "Van Houten's Cocoa." *Held*, that such liability to confusion and deception was ground for granting an injunction against the defendants' use of said name unless accompanied by a clear statement distinguishing its cocoa from complainants'.

The basis for relief in unfair competition is fraud. *Gorham Mfg. Co. v. Dry Goods Co.*, 104 Fed. 243; *Day v. Webster*, 49 N. Y. Supp. 314. The use in good faith of one's name in connection with an article offered for sale is generally held justifiable and damage resulting to another from similarity of surnames is *damnum absque injuria*. *Brown Chemical Co. v. Meyer*, 139 U. S. 540; *Nat'l Starch Mfg. Co. v. Duryea*, 101 Fed. 117; *Harson v. Hallyard*, 22 R. I. 102; *Hazelton Boiler Co. v. Hazelton Tripod Boiler Co.*, 142 Ill. 494.

USURY—PROMISSORY NOTE—LEX LOCI CONTRACTUS.—WHITLOCK V. COHN ET AL., 80 S. W. 141, (ARK.).—*Held*, that the place of payment of a promissory note will not be regarded as determining the place of the making of the contract so as to render the contract usurious, since the parties will not be presumed to have contracted with reference to a law which will make the contract illegal.

It is now well settled that where the place of the making of the contract and the place of performance are the same, its validity as regards usury is determined by the law of that jurisdiction and not by the law of the place where the suit is brought. *Merchants' Bank v. Griswold*, 72 N.Y. 472; *Philadelphia Loan Co. v. Towner*, 13 Conn. 249. But when the contract is made in one state and payment is to be made in another, there is much conflict among the authorities. In some jurisdictions it is held without reserve that the law of the place of performance must govern. *Bennett v. Eastern Building & Loan Association*, 177 Pa. St. 233; *People's Building & Loan Association v. Tinsley*, 96 Va. 322. In Massachusetts the rule is that the law of the place of execution and payment of the consideration will control. *Akens v. Demond*, 103 Mass. 318; *Glidden v. Chamberlin*, 167 Mass. 486. In the Federal courts and in many of the state courts, it is held, as in the present case, that the intention of the parties is the controlling factor. *Miller v. Tiffany*, 1 Wall. 298; *Wayne Co. Savings Bank v. Lowe*, 81 N. Y. 566; *Pancoast v. Travellers Ins. Co.*, 79 Ind. 172.